

Message Text

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ACTION IO-13

INFO OCT-01 ADP-00 AF-10 ARA-11 EA-11 EUR-25 NEA-10 RSC-01

GAC-01 ACDA-19 CIAE-00 DODE-00 NSAE-00 NSCE-00 SSO-00

USIE-00 INRE-00 PM-09 H-02 INR-10 L-03 NSC-10 PA-03

PRS-01 SS-15 RSR-01 /156 W
----- 093230

O P 171910 Z MAY 73

FM USMISSION GENEVA

TO SECSTATE WASHDC IMMEDIATE 9391

INFO USMISSION USUN NEW YORK PRIORITY

C O N F I D E N T I A L SECTION 1 OF 2 GENEVA 2358

E. O. 11652: GDS

TAGS: PFOR, UN

SUBJECT: DEFINITION OF AGRESSION COMMITTEE: GENERAL OVERVIEW

1. DELEGATION UNDERSTANDS THERE IS SOME CONCERN WITHIN DEPARTMENT ABOUT FACT THAT A CERTAIN AMOUNT OF PROGRESS BEING MADE IN THESE DISCUSSIONS. WE THINK, THEREFORE, THIS MAY BE APPROPRIATE MOMENT TO PUT DEFINITION OF AGRESSION EXERCISE IN PERSPECTIVE AS SEEN FROM HERE.

2. US HAS, OF COURSE, NEVER FAVORED IDEA OF DEFINING AGRESSION. HOWEVER, WE HAVE LONG BEEN FACED WITH HARD FACT THAT LARGE MAJORITY OF INTERNATIONAL COMMUNITY CONSIDERS THIS A DESIRABLE PROJECT. WE REALIZED THAT, IN ABSENCE OF SERIOUS PARTICIPATION BY US AND OTHER LIKE-MINDED STATES, WE WERE LIKELY TO BE FACED WITH HIGHLY UNDESIRABLE INSTRUMENT WHICH COULD BE PASSED BY LARGE MAJORITY OF GENERAL ASSEMBLY AND WHICH WOULD BE SO VIOLENTLY AT ODDS WITH US LEGAL AND POLITICAL PHILOSOPHY AS TO CREATE HIGHLY UNDESIRABLE SITUATION FOR US.

3. IT WAS FOR THIS REASON THAT WE, ALONG WITH FIVE OF OUR CLOSEST ALLIES, TABLED DRAFT DEFINITION IN 1969.

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THAT DRAFT WAS DESIGNED AS ALTERNATIVE TO SIMPLISTIC MODEL OF DEFINITION OF AGRESSION FAVORED BY MANY GOVERNMENTS, NAMELY, A LIST OF ACTS, THE FIRST RESORT TO WHICH WOULD CONSTITUTE AGRESSION. OUR DRAFT EMPHASIZED THE ROLE OF THE SECURITY COUNCIL IN DETERMINATION OF AGRESSION AND THE FACT THAT THE PURPOSE FOR WHICH FORCE IS USED HAS A BEARING ON THE QUESTION WHETHER IT CONSTITUTES AGRESSION.

4. WHILE OUR DRAFT DIFFERED SUBSTANTIALLY FROM OTHERS BEFORE THE COMMITTEE, US DELEGATIONS TO THIS COMMITTEE, INCLUDING THE PRESENT ONE, HAVE BEEN GUIDED BY THE PRINCIPLE THAT, SINCE A DEFINITION OF AGRESSION WAS NOT SOMETHING WE CONSIDERED DESIRABLE, WE SHOULD NOT MAKE SUBSTANTIVE CONCESSIONS IN THE INTEREST OF ACHIEVING AGREEMENT.

5. THIS DOES NOT MEAN, HOWEVER, THAT IT IS A CREDIBLE OR WORKABLE STRATEGY FOR THE UNITED STATES TO REMAIN SILENT AT THE NEGOTIATING TABLE AND ADHERE FIRMLY TO A PARTICULAR TEXT WHEN OTHERS INCLUDING ALL FIVE OF OUR CO- SPONSORS ARE WILLING TO MAKE A SERIOUS EFFORT TO ACHIEVE A MEETING OF THE MINDS ON THE ISSUES. UNTIL THIS YEAR, WE WERE NEVER REALLY FACED WITH THIS SITUATION. THE SOVIET DELEGATION WAS HEADED BY A DOCTRINAIRE AND INFLEXIBLE REPRESENTATIVE. NON- ALIGNED DELEGATIONS INCLUDED A NUMBER OF EXTREMELY TROUBLESOME INDIVIDUALS. AGAINST THIS BACKGROUND, IT WAS QUITE POSSIBLE FOR THE UNITED STATES AND ITS ALLIES TO LET OTHERS APPEAR IRRESPONSIBLE AND UNYIELDING. THIS YEAR, HOWEVER, THE ATMOSPHERE HAS BEEN AN EXTREMELY CONSTRUCTIVE ONE. THE SOVIET, EASTERN EUROPEAN, AND NON- ALIGNED DELEGATIONS (INCLUDING EVEN THE GYPTIANS) HAVE MADE EVERY EFFORT TO SIT DOWN WITH US AND TRY TO FIND WAYS TO BRIDGE THE DIFFERENCES.

6. A STRATEGY OF ADHERING STRICTLY TO OUR OWN DRAFT IS UNTENABLE, IF ONLY FOR THE REASON THAT, AS SEEMS VERY CLEAR HERE, OUR ALLIES REFUSE TO BE CAST IN THE ROLE OF OBSTACLE TO WHAT THE GREAT MAJORITY REGARD AS PROGRESS AND WHAT THEY REGARD AS A MEANS OF BRINGING THIS COSTLY AND PAINFUL EXERCISE TO AN ANODYNE CONCLUSION. THE AUSTRALIANS
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AND CANADIANS, IN PARTICULAR, HAVE MADE IT CLEAR TO US THAT THEIR GOVERNMENTS WERE ANXIOUS TO PORTRAY A MORE ACCOMMODATING ATTITUDE ON THIS ISSUE.

7. WHAT THIS ULTIMATELY BOILS DOWN TO IS THAT THE UNITED STATES IS VERY CLEARLY IN DANGER OF BEING INCREASINGLY ISLOATED ON THIS MATTER UNLESS WE ARE PREPARED AT LEAST TO

NEGOTIATE SERIOUSLY WITH OTHERS IN THE COMMITTEE. OUR ABILITY TO PURSUE OUR ORIGINAL STRATEGY OF PREVENTING THE ADOPTION BY A LARGE MAJORITY OF A DEFINITION WITH WHICH WE COULD NOT AGREE WOULD BECOME SUBSTANTIALLY MORE DIFFICULT TO ATTAIN IN THE ABSENCE OF CLEAR SUPPORT EVEN FROM OUR OWN ALLIES. MOREOVER, OUR ABILITY TO NEGOTIATE AN ACCEPTABLE DEFINITION CAN ONLY BE REDUCED OVER TIME EVEN IF WE SUCCEED IN PROLONGING THE PROCESS, AND THE ULTIMATE PRICE OF SETTLEMENT WILL GO UP EACH YEAR.

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INFO OCT-01 ADP-00 AF-10 ARA-11 EA-11 EUR-25 NEA-10 RSC-01

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C O N F I D E N T I A L SECTION 2 OF 2 GENEVA 2358

8. NONE OF THIS WOULD HAVE ANY RELEVANCE IF, ON THE MERITS, A PARTICULAR " DEFINITION" WAS IN ANY MANNER UNACCEPTABLE TO THE UNITED STATES. HOWEVER, WE BELIEVE THE DESIRE AMONG MEMBERS OF THIS COMMITTEE TO OBTAIN A " DEFINITION" THIS YEAR IS SO GREAT THAT WE ARE IN A BARGAINING POSITION WHICH WILL PROBABLY NEVER BE BETTER. MOREOVER, AS WE HAVE REPORTED, THIS DESIRE FOR PROGRESS HAS LED TO FORMULATIONS WHICH, IN THIS DELEGATION'S VIEW, ARE ENTIRELY HARMLESS FROM THE POINT OF VIEW OF THE UNITED STATES AND IN SHARP CONTRAST TO THE SIMPLISTIC CONCEPTS WHICH ORIGINALLY UNDERLAY THE POSITIONS OF THE SOVIETS, THE FRENCH, AND MANY OF THE NON- ALIGNED.

9. IN PARTICULAR, WE BELIEVE WE ARE WITHIN REACH OF A DEFINITION WHICH IS VERY CLEARLY INTENDED FOR USE WITHIN

THE CONTEXT OF THE SECURITY COUNCIL (I. E., IS NOT A SELF-EFFECTUATING RULE OF INTERNATIONAL LAW), PRESERVES ALL OF OUR SUBSTANTIVE POSITIONS WITH RESPECT TO LEGAL USES OF FORCE UNDER THE UNITED NATIONS CHARTER, AND WILL FAIRLY REFLECT THE GRAVITY OF ARMED SUBVERSION ON A BASIS COMPARABLE TO THAT OF THE USE OF ARMED FORCES. DELEGATION BELIEVES THAT, WHILE US RELUCTANCE TO " DEFINEAGRESSION"

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HAS BEEN SOUND APPROACH, THE " DEFINITION" NOW UNDER CONSIDERATION IS SO FAR REMOVED FROM THE CONCEPTS TO WHICH WE ORIGINALLY OBJECTED THAT IT IS NOT IN FACT THE SAME ANIMAL.

10. WE HOPE THE FOREGOING WILL BE OF ASSISTANCE TO THE DEPARTMENT IN CONSIDERING THE DELEGATION' S REQUESTS FOR ADDITIONAL GUIDANCE. BASSIN

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